



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 4, 2008

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeal Of Historic Landmarks Commission Denial For 517 Chapala Street Development Project

RECOMMENDATION: That Council:

- A. Uphold the appeal of Peikert Group Architects filed on behalf of H&R Investments and overturn the Historic Landmarks Commission decision to deny Preliminary Approval of a proposed mixed-use project located at 517 Chapala Street; and
- B. Grant the project Preliminary Approval and refer the project back to the Historic Landmarks Commission for in-progress review with specific direction on the project's final design details, as outlined in the Council Agenda Report.

EXECUTIVE SUMMARY:

The Historic Landmarks Commission (HLC) reviewed this approved mixed-use, three-story condominium project and denied the Preliminary Approval of the design review aspects of the project at the request of the applicant by a 7/2/0 vote on November 28, 2007. The applicant had requested a denial based on a belief that additional revisions being requested by the HLC would require a major redesign of the project.

The appellants have filed an appeal requesting that the Council approve the project, asserting that the "HLC has stated its intent to impose revisions to the project inconsistent with the Planning Commission's July 13, 2006, approval of the project" (see Attachment 1). It is Staff's position that some of the appellants' concerns are valid, in that the HLC has attempted to ask for substantial design changes to the project at a late stage in the City's review process. Staff understands the HLC's concerns regarding the compatibility of the proposed building and its location on Chapala Street adjacent to historic resources. Staff believes the HLC required some reasonable changes to lower the height and improve the appearance of the building.

REVIEWED BY: _____ Finance _____ Attorney

Agenda Item No. _____

Staff understands that part of the reason for the HLC's design concerns is their belief that the approved project was modified by the Planning Commission to be taller and is now not consistent with the original conceptual plans presented in 2005. Although the HLC reviewed this project at only one Concept Review hearing in 2005, the HLC, at the time, did not identify major height concerns, design guideline inconsistencies, or neighborhood compatibility concerns. Part of the conflict that has caused this appeal has been the passage of time since the project was first reviewed by the HLC and the changing attitudes regarding building heights in El Pueblo Viejo. The appeal raises concerns and questions regarding the City's review process and how design review boards communicate with the Planning Commission. In this particular case, it appears the HLC did not strongly state their design concerns to the Planning Commission prior to the Planning Commission's land use approval action.

It is Staff's opinion that the applicant did attempt to respond to the HLC's concerns, and that some positive changes were made to the project design. However, Staff also has determined that the introduction of fourth-story roof gardens and a square footage increase were not part of the original Planning Commission approval of the project and should be removed from the project design. Staff supports the approval of the project design with changes. Therefore, Staff recommends that the Council uphold the appeal, grant Preliminary Design Approval of the project, and refer the project back to the HLC for additional in-progress review with specific direction outlined in this report.

PROJECT DESCRIPTION:

The project involves a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the residential units would be affordable. A modification to allow the 10% open space on the second floor was approved as requested. Seventeen parking spaces are proposed. The proposed parking garage would be accessed from the existing Chapala Street curb cut.

The project site is located along the lower part of Chapala Street corridor in the downtown core of the City and backs up onto a public alleyway to the rear. The 500 block of Chapala Street has primarily commercial development along both sides of the street with some residential uses. The uses surrounding the project site are commercial and mixed-use with residential and are primarily developed with single and two-story buildings (see Attachment 2.)

The proposed project at 517 Chapala Street is surrounded by historic structures to the south and west, which are part of the Brinkerhoff Avenue Landmark District. A Victorian Italianate-style residence, constructed in 1887 and located at 509 Chapala Street is adjacent to the project. A new three-story, mixed-use condominium project is presently under construction adjacent to the site to the north. The proposed project and the

condominium project under construction at 523 Chapala Street were formerly used as used auto sales lots.

DISCUSSION:

Historic Landmarks Commission Review

The HLC reviewed the project at one Concept Review hearing in March 2005 and determined that the proposed site plan design was generally acceptable. At that same hearing, the HLC also indicated the size, bulk and scale of the project was generally acceptable. The HLC did not indicate any neighborhood compatibility concerns regarding the project's proximity to the Brinkerhoff Landmark District or the adjacent Victorian-era Structure.

Since 2005, the HLC has become aware of greater public focus and scrutiny on the potential impacts of taller development throughout the City and within El Pueblo Viejo (EPV). The emerging trend regarding tall buildings appears to have influenced how the HLC reacted to this project when, in November 2007, the HLC had another opportunity to review this proposed project after it had received its land use approval from the Planning Commission. The meeting minutes indicate how the HLC's mindset had evolved and that they were more cautiously reviewing the height of development proposals of three stories or greater as compared to years past. During review of this project, the HLC also appeared to re-evaluate how the proposed development would impact adjacent historic resources. The progression of comments in the HLC's minutes is reflected below and indicates the HLC's reluctance to accept the project's design even as they recognized that it had already progressed to the point of receiving land use and development and review approvals (see Attachment 3).

- On March 16, 2005, the HLC reviewed the project for the first time. The project was continued to the Planning Commission with generally positive comments.
- On November 15, 2006, the HLC reviewed the project for the first time after Planning Commission approval and expressed concerns regarding the architectural design of the project and requested changes to the south elevation and main tower.
- On August 8, 2007, the HLC requested the tower design be restudied and the height of the building be reduced. In addition, substantial site plan changes were requested, including that the building be pulled away from Chapala Street, with an increased landscape buffer and screening of the building. Underground parking was also requested to be designed into the project.
- On September 9, 2007, a series of straw votes indicated as follows: 1) limited support for the main tower design; 2) an additional request to further reduce the height of the building at the west elevation; 3) a new request to reduce the south elevation to limit its impact on the adjacent Victorian structure; and, 4) a request to increase the landscape planting strip along the front of the building from 18 inches to 36 inches.

Council Agenda Report

Appeal Of Historic Landmarks Commission Denial For 517 Chapala Street Project

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- On September 19, 2007, the HLC requested more changes to the tower design, more changes to the Chapala Street elevation, articulation of blank wall at the south elevation, and simplification of the west elevation. Preliminary Approval was granted on a split 4/3/2 vote.
- On October 3, 2007, the HLC made a motion for reconsideration of the Preliminary Approval of the project and tabled the motion until its next meeting.
- On October 17, 2007, the HLC untabled its previous motion for reconsideration and voted 8/0/0 to reconsider the project. The HLC requested changes to: 1) reduce massing of the building along the south elevation to provide a transition to the Victorian structure to the south; 2) reduce plate heights; 3) provide more substantial landscaping; 4) more changes to the Chapala Street elevation including providing minimum 36-inch landscaping planter at front; and, 5) to have a landscape architect involved with project. The tower design remained unresolved.
- November 14, 2007, the HLC conducted a series of straw votes to establish the level of support for specific design elements, including limited or no support for: 1) south elevation design with the amount of proposed setbacks; 2) roof decks, and 3) location of the second and third floors. Some commissioners believed at least a 30-inch planter along the Chapala Street elevation would be acceptable instead of the 20 inches proposed at portions along Chapala Street.
- November 28, 2007, the HLC denied the project after a motion for Preliminary Approval failed. The Commission stated that the project would negatively impact the Brinkerhoff Avenue Landmark District and the adjacent Victorian structure.

Planning Commission Review

Planning Commission Lunch Meeting

On April 21, 2005, the project was brought to a Planning Commission (PC) lunch meeting to discuss the proposed access to the site. The PC was in support of providing access from both Chapala Street and the alley, as opposed to access from only the alley. Also, the option of underground parking was discussed, with both the Commission and the applicant concluding that the size of the parcel would make it infeasible.

Planning Commission Action

On July 13, 2006, the PC held a public hearing and approved the land use entitlements necessary for the proposed project on a vote of 7-0. The hearing included a discussion of the affordable unit, the option of providing pedestrian access from Chapala Street to the alley, the adjacent Brinkerhoff Avenue Landmark District, underground parking, the south elevation, lowering the garage height, reducing the size of the third floor balconies, and that the 45-foot height was acceptable for a three-story building (see Attachment 4, Planning Commission Minutes). Included in the motion to approve the project were six

amendments to the proposed conditions of approval. The following four conditions (which were design-related) are subject to review by the HLC:

- **South Elevation.** Provide articulation of blank wall along rear building through use of windows, shutters, landscaping or other means deemed appropriate.
- **Balconies.** The third-story balconies shall be reduced to the minimum dimensions required by the Zoning Ordinance.
- **Residential Garage Plate Height.** The residential garage plate height will be lowered to a floor-to-floor of approximately nine feet; as a result, the building above it will be reduced accordingly.
- **Garage Access.** Provide access from the residential garages to the elevator by reducing the two-car garage of Unit 2 to a one-car garage.

Building Height Issue

The plans that were reviewed by the HLC on March 16, 2005 (first concept review) had an overall typical height of 41' with a 48' maximum height for the tower. The plans that were approved by the Planning Commission on July 13, 2006 had an overall typical height of 43' with a 50' maximum height for the tower. It is not unusual for changes to be made to the project as it moves from the conceptual stage at HLC to the Planning Commission; however, as stated above, the PC requested a reduction in the overall height of the building when it required that the residential garage plate height be lowered to nine feet (see Attachment 5). When the project returned to the HLC on November 15, 2006, the project maintained an overall typical height of 43' with a 50' maximum height for the tower. The plans reviewed on November 14, 2007 and on November 28, 2007 (at the time of HLC denial) shows that the building had been lowered to an overall typical height of 40' with a 47' maximum height for the tower, which was lower than that suggested by the Planning Commission.

In addition, roof decks, which were not part of the PC-approved plan, were included in the plans reviewed at the November 15, 2006 HLC meeting. Also, the total building area increased from 18,780 square feet shown on the March 16, 2005 plans to 18,823 square feet (less than 100 sq. ft.) at the time of Planning Commission approval to 20,745 square feet at the time of HLC denial, an increase in excess of 10% over the PC approval. The change in floor area will require a determination of substantial conformance for a revised application before the final map can be approved and permits can be issued for the project.

Appeal Points/Issues:

- *What is the normal City review process for development applications that require both an ABR or HLC approval and a Planning Commission approval?*

The normal City review process is to obtain conceptual plan comments from the ABR or HLC prior to moving forward to the Planning Commission for a land use decision. The number of conceptual reviews, type and amount of communication varies between projects. Some projects may only require one concept review, while others require several reviews. However, the basic premise is that any significant design concern should be noted in the minutes (such as: a need to revise the site plan; to increase building setbacks; to include underground parking; or to require the reduction of a building's height, mass and scale) so as to advise the PC on design issues that need to be resolved. It is often the case that if a project receives "negative" design comments at Concept Review, further design changes are made by the applicant in order to obtain more positive comments. The PC reads and evaluates the minutes to understand if the HLC or ABR had concerns or if they support the project. In some cases, a member of the HLC or ABR attends the PC hearing to further elaborate on the Board's comments regarding the project's design.

The Planning Commission's land use approval decision is recognized as the "substantive" approval decision on a project's approved site plan and building height. Once the project is approved by the Planning Commission, the HLC has typically granted Preliminary Approval to the project if, in the opinion of the HLC, the plans are in substantial conformance to the plans approved by the Planning Commission and if the project is consistent with the plans submitted at the HLC Concept review which received positive HLC comments. Typically, the HLC would not seek significant reductions in height or major site plan changes unless the PC approval had specific directions to do so or if the project had since changed in a substantial manner not consistent with the PC approval.

- *Can the HLC (or ABR) request that an applicant modify a project design after Planning Commission approval?*

The HLC may request changes that are generally consistent with the PC approval. However, in staff's view, the changes should be consistent with the project approved by the PC. There are often minor changes in building massing or articulation as the applicant works with the HLC to finalize the project. Changes are made partly for design improvements and as a result of moving into working drawings. In this particular case, it appears the City's review process and communication methods did not work efficiently because the HLC did not raise any major design or compatibility concerns at the early concept review level and only raised substantive design concerns after the project had been to the Planning Commission. The project proceeded through the City's Development Application Review Team (DART) review process and was ultimately modified without returning for additional HLC comments on the design changes. Therefore, the Planning

Commission was unaware of any major design concerns and proceeded to conditionally approve the project. The project has also been revised since the original Planning Commission review to include fourth-story roof gardens. Given the changes to the design of the project, the HLC has since reconsidered their support level for the project and is now requesting substantive design changes (see Attachment 6).

The applicant made several design changes after Planning Commission approval of the project in an attempt to satisfy some of the HLC's concerns, including the following:

- Reduction in overall height of Chapala Street elevation from 43 feet to 40 feet;
- Reduction in tower diameter and tower height from 50 feet to 47 feet;
- Reduction in overall height of western elevation from 41 feet to 37 1/2 feet;
- Reduction of plate heights;
- Reduction in the building height and removal of the larger gable roof on the Western elevation;
- Elimination of the gable on the Chapala Street (eastern) elevation;
- Increase in total landscaping on site from 6% to 9.3%, including new landscape planter at front of building and additional planting along south elevation; and
- Reduction of driveway width by 2 feet.

It is Staff's opinion that the number of changes demonstrates the applicant's effort to respond to concerns regarding the building's height and to achieve design changes requested by the HLC. It appears the applicant also made significant changes to the design that were not reviewed or approved by the Planning Commission. These changes included the removal of third-story balconies and the addition of fourth-story roof gardens which have not yet been determined to be in substantial conformance with the Planning Commission approval.

There is a point where additional changes requested by the HLC could severely impact the feasibility of the design for an approved project. Staff believes it is not appropriate at this point for an applicant to be faced with the task of redesigning the project in a manner that would cause major site plan changes or a reduction in the number of condominium units at such a late stage in the City's process.

- *Is the Project Inconsistent with applicable Design Guidelines as cited by the HLC?*

Staff believes that the project can be found consistent with adopted design guidelines. The City's Urban Design Guidelines (UDG) attempt to balance the City's goals to encourage a mix of residential and non-residential land uses that are pedestrian-, bicycle- and transit-friendly with buildings that conform to traditional design principles and human scale.

The City's UDG have specific criteria for how a building should be compatible with existing development. Specific guidelines state the following:

- Design large or tall buildings with yard setbacks to reduce the apparent size;
- Vary building heights in buildings and along streets to protect the character of historic streetscape;
- Evaluate, in the design review process, the compatibility of proposed developments with Santa Barbara's distinctive architectural character, the overall neighborhood, and adjacent developments;
- Design the structure in a size, bulk, and scale that is comparable to existing surrounding developments;
- Coordinate the form and height of the new structure with existing structures in a block;
- Use colors or materials similar to those of adjacent developments; and
- Consider the transition from one structure to the next. Each structure must exhibit its own unique character, while displaying careful consideration of the character of surrounding structures.

The UDG also state that the HLC has the flexibility to apply discretion when evaluating a proposed development's compatibility with the existing environment on a case-by-case basis. Staff believes that the proposed project (if revised as recommended) can be determined by Council to be consistent with the City's UDG. The project is also next to a site under construction at 523 Chapala, which is similar in size and scale and was found acceptable by the HLC.

The Neighborhood Preservation Ordinance (NPO) is not applicable for use on a mixed-use design. The Chapala Street Design Guidelines are not technically applicable for use other than for sidewalk and street design improvements.

- *Will the project negatively or adversely impact the adjacent Historic Resources?*

The appellants contend that changes have been made to the project design to improve the transition to the Victorian structure to the south. One change is an increase of the setback dimension to six feet along the south elevation for at least 50% of the structure's extent. The project also provides a six-foot landscape buffer to the rear of the project which abuts the Brinkerhoff Avenue Landmark District along the public alleyway. The Planning Commission reviewed a site section and evaluated how the proposed structure on Chapala Street might impact views from Brinkerhoff Avenue. The Planning Commission requested a further reduction of the garage plate heights but determined the project acceptable if revised as directed.

Planning Staff believes the adjacent Victorian structure would not be significantly impacted, given that the location of the taller elements of the project are located approximately 84 feet back from Chapala Street and that setbacks have been further increased to six feet for portions of the second and third floors for the new rear structure

since the Planning Commission approval of the project. Furthermore, the two-story historic structure at 509 Chapala Street is 30 feet tall, is situated towards the front of the property, and is located 13 to 16 feet away from the property line. This separation in setback distances is sufficient to not severely impact the adjacent structure.

Decision and Findings of the Planning Commission

It is Staff's position that the findings and determinations recommended by Staff and approved by the Planning Commission were appropriate for the project. The issues and concerns originally identified by the HLC, including those of the adjoining property owners, were carefully considered by the Planning Commission during deliberations on the project and reflected in the findings made by the Commission for the Tentative Subdivision Map and Development Plan (see Attachment 7).

Conclusion:

As indicated previously in describing the chronology and review history of the project, the first HLC concept review of the project did not apparently raise significant design issues for the HLC. Staff believes it was important for the HLC to identify major design concerns early and either forward those concerns to the PC or work with the applicant to redesign the project until positive comments could be sent to the PC. Although the project design has evolved, the applicant should not be expected to significantly redesign their project in a manner that would require loss of parking, increased setbacks or reduction of residential units. Conversely, the applicant should not introduce new design elements (roof garden decks) or add substantially more square footage that were not a part of the Planning Commission review and approval.

While Staff understands that the City's review process allows the HLC to deny projects they do not find consistent with design guidelines, this particular denial is unusual in that the HLC is essentially not in agreement with the Planning Commission's approval of the project rather than taking issue with the overall design of the project. Planning Staff believes that the project has been improved as a result of the HLC's reviews, and that it is appropriate to grant Preliminary Approval.

RECOMMENDATION:

Staff recommends that Council: 1) uphold the appeal and overturn the Historic Landmarks Commission decision to deny Preliminary Approval of the project; 2) grant the project Preliminary Approval, and, 3) refer the project back to the Historic Landmarks Commission for in-progress review with specific direction as follows:

1. Eliminate fourth-story roof garden decks from project design;

2. Eliminate elevator access to front penthouse roof garden deck and thereby further reduce the height of the tower to an acceptable height as determined by the HLC.
3. Require all air conditioning equipment or solar panels to be screened and hidden from public view.
4. Reduce total square footage to that which was approved by the Planning Commission or require the applicant to obtain a substantial conformance determination.

NOTE: The project plans and following attachments have been sent separately to the City Council and are available for public review in the Mayor and Council Office and the City Clerk's Office:

ATTACHMENTS:

1. Appellant's letter dated December 5, 2007
2. Vicinity Map
3. Minutes of the Historic Landmarks Commission
4. Project Review Chronology
5. Site Plan and elevations approved by Planning Commission on July 13, 2006
6. Site Plan and elevations denied by Historic Landmarks Commission on November 28, 2007
7. Planning Commission Resolution No.030-06

PREPARED BY: Jaime Limón, Senior Planner II

SUBMITTED BY: Dave Gustafson, Acting Community Development Director

APPROVED BY: City Administrator's Office



PEIKERT GROUP ARCHITECTS, LLP

RECEIVED

DEC 07 2007

CITY OF SANTA BARBARA
PLANNING DIVISION

December 5, 2007

BY HAND DELIVERY

City Clerk
City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

SUBJECT: 517 Chapala Street (MST2005-00088) – Appeal of Historic Landmarks
Commission Decision

To the City Clerk:

The undersigned, as agent for the applicant H&R Investments ("Applicant"), hereby appeals the November 28, 2007 decision of the Santa Barbara Historic Landmarks Commission (HLC) deny the application for preliminary review approval for a mixed use project located at 517 Chapala Street. The basis for our appeal is as follows:

1. The HLC stated its intent to impose revisions to the project that would be inconsistent with the Planning Commission's July 13, 2006 approval of the project, and which were unacceptable to the Applicant.
2. The evidence in the record does not support the findings the HLC made in denying the project, including finding that claims the project is "inconsistent" with the Chapala Street Guidelines, the Urban Design Guidelines, and the Neighborhood Preservation Ordinance.

Further details concerning this appeal, including a detailed history of the project's discretionary process including Planning Commission and HLC review, will be provided prior to the scheduled appeal hearing.

Sincerely,

Lisa Plowman
Planning Manager

Vicinity Map 517 Chapala Street



HLC MINUTES – March 16, 2005**CONCEPT REVIEW - NEW**

6. **517 CHAPALA ST** C-2 Zone
 Assessor's Parcel Number: 037-163-007
 Application Number: MST2005-00088
 Owner: Montecito Bank and Trust, Trustee
 Applicant: Peikert Group Architects, LLP

(PRT for a new mixed-use project consisting of 3,000 square feet of commercial and six new condominiums, one of which is bonus density. The proposal encompasses two lots.)

(PROJECT REQUIRES PLANNING COMMISSION APPROVAL FOR A TENTATIVE SUBDIVISION MAP AND DEVELOPMENT PLAN APPROVAL FINDINGS.)

(2:49)

Straw vote: How many Commissioners agree that the project can be forwarded to the Planning Commission with comments? 5/3.

Detlev Peikert, Architect; and Gordon Brewer, Architect, present.

Staff Comment: Jessica Grant, Associate Planner, stated the project is currently submitted for pre-application review. Ms. Grant requested the Commission comment on the two separate access points off Chapala Street and the alley, as well as the mass, bulk, and scale of the project and the courtyard area.

Motion: Continued indefinitely to the Planning Commission with the following comments: 1) The Commission generally accepts the site plan as presented. 2) Establish pedestrian access to the alleyway. 3) Provide an adequate or sufficient planting area to allow for skyline trees on the reference north and alley elevations. 4) The Commission supports the double entrance from Chapala Street and the alley. 5) The size, bulk and scale are generally acceptable. 6) Fine tune the architecture to bring the project into compliance with the Zoning Ordinance. 7) The tucked-under handicapped parking space needs to be carefully considered as part of the whole design because of its visibility from the street. 8) The driveway shall be designed to emulate a Paseo and be pedestrian scaled to be feasible.

Action: La Voie/Hausz, 8/0/0.

HLC MINUTES – September 5, 2007

PRELIMINARY REVIEW

6. 517 CHAPALA ST

C-2 Zone

(4:01)

Assessor's Parcel Number: 037-163-007

Application Number: MST2005-00088

Owner: Montecito Bank & Trust Trustee

Applicant: Peikert Group Architects, LLC

Applicant: H & R Investments

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Preliminary Approval is requested.)

(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION RESOLUTION NO. 030-06.)

Present: Detlev Peikert and Scott Hopkins, Peikert Group Architects
Kathleen Kennedy, City Assistant Planner

Staff comments: Ms. Kennedy stated that the Planning Commission approved the project in July of 2006 with the proposed mass, bulk, and scale and determined that underground parking was not needed. Staff's recommendation is that it would not be appropriate to request an additional reduction in building height or substantial setback increases.

Public comment opened at 4:36 p.m.

Paula Westbury, local resident, expressed opposition to the project's height.

Kellam De Forest, local resident, commented about the need to restrict building heights in El Pueblo Viejo Landmark District and asked that the proposed project height be reduced.

Tony Vassallo, local resident, commented about lowering the garage plate height as much as feasible. He also commented that the third story balconies on the south, [west] elevation are unnecessarily large and could affect neighbor privacy. Mr. Vassallo questioned whether the proposed tile roofing could be seen from the pedestrian level.

Public comment closed at 4:42 p.m.

Straw votes: How many commissioners could support the tower as designed? 2/7.
(Naylor/Hausz agreed.)

How many Commissioners could support a square tower with a more tower-like proportioning and articulation? 6/3. (La Voie/Naylor/Sharpe opposed.)

How many Commissioners could support the round tower with the proper proportions? 8/1. (Sharpe opposed.)

How many Commissioners are comfortable with the gable as proposed on the Chapala Street elevation? 0/9. (All opposed.)

How many Commissioners would like to see the proposed gable be removed from the proposal? 9/0. (All agreed.)

Motion: **Continued two weeks with the following comments:** 1) The Commission would like to see the height of the building reduced on the back at the west elevation. 2) Resolve the composition of the Chapala Street elevation with or without a gable. 3) Use whatever means possible to reduce the south elevation of the building and its impact on the adjacent Victorian structure. 4) Include a more Mediterranean plant palette and an increase in planting wherever possible. 5) The Chapala Street planting strip should be increased to 36 inches instead of 18 inches.

Action: Hausz/Boucher, 9/0/0. Motion carried.

HLC MINUTES – September 19, 2007

PRELIMINARY REVIEW

4. 517 CHAPALA ST

C-2 Zone

(3:00)

Assessor's Parcel Number: 037-163-007

Application Number: MST2005-00088

Applicant: H & R Investments

Owner: Montecito Bank & Trust Trustee (For Applicant: Peikert Group Architects LLC)

The Proposed Project Consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Preliminary Approval is requested.)

(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION RESOLUTION NO. 030-06.)

Present: Detlev Peikert, Peikert Group Architects
 Scott Hopkins, Peikert Group Architects

Public comment opened at 3:13 P.M.

Karen McFadden, local resident, opposes the project
Tony Vasallo, local resident, supports the project

Kellam De Forrest, local resident, opposes the project

Public comment closed at 3:22 P.M.

Straw Votes How many Commissioners feel that the essence, (mass, bulk, and scale), of the project is approvable with changes to certain architectural elements such as the tower and the south elevation? 4/2 (Murray and Sharpe opposed.)

How many Commissioners feel that this project is unacceptable in mass, bulk, and scale in its current configuration? 3/4

How many Commissioners feel the Chapala elevation has been improved from the previous presentation and is approaching an approvable stage? 2/5

How many Commissioners support the shape of the tower? 4/3

How many Commissioners support a reduction of the Brinkerhoff elevation, (the lowering of the top plate and the elimination of the gable and roof line)? 3/0/1 (Naylor abstained)

Motion: Preliminary approval and indefinite continuance In-Progress review with revisions to the fenestration of the top level of the tower, provide articulation of the blank wall along the rear building through use of windows, landscaping, or other means, provide different sketches to simplify the design of the west elevation, and, to use a more Mediterranean plant palette with taller trees as the landscape plan is developed.

Action: Adams/Curtis , 3/4/2. (Boucher, Murray, Sharpe, Naylor opposed. Hausz/LaVoie absent). Motion failed.

Second

Motion: Preliminary approval to indefinite continuance to In-Progress with revisions to the fenestration of the top level of the tower, provide articulation of the blank wall along the rear building through the use of windows, landscaping, or other means , provide different sketches to simplify the design of the west elevation, use a more Mediterranean plant palette with taller trees as the landscape plan is developed , revisit the Chapala Street elevation, particularly looking at the tower.

Action: Naylor /Curtis , 4/3/2. (Boucher, Murray, Sharpe opposed. Hausz/LaVoie absent) Motion carried.

HLC MINUTES – October 3, 2007

GENERAL BUSINESS: (1:37)

- D. Announcements, requests by applicants for continuances and withdrawals, future agenda items, and appeals.
4. The HLC's preliminary approval of the project at 517 Chapala Street and their final approval of the sidewalk improvement project for 0-800 E. Cabrillo Blvd have been appealed. The City Council appeal hearing dates have not yet been set.
5. The Rental Housing Mediation Task Force will hold their regularly scheduled meeting in this room tonight so the HLC will need to be finished up by 7:00 p.m.
6. Mr. Jacobus announced that next Tuesday, October 9, 2007 is the appeal of the HLC's decision to keep 1849 Mission Ridge Road on the City's List of Potential Historic Resources and requested that one or more commissioners attend the meeting.
7. **Motion: To reconsider the Preliminary Approval granted on September 19, 2007 for the project at 517 Chapala Street. Adams/Boucher, 0/0/0 (Motion Tabled)**

Bettie Weiss, City Planner, clarified the process to reconsider preliminary approval of the project at 517 Chapala Street. The reconsideration cannot be done today since it was not placed on the agenda. The motion should be to request reconsideration on October 17, 2007 agenda.

HLC MINUTES – October 17, 2007

RECONSIDERATION HEARING

4. 517 CHAPALA ST C-2 Zone
(2:00) Assessor's Parcel Number: 037-163-007
Application Number: MST2005-00088
Applicant: Peikert Group Architects LLC
Applicant: H & R Investments
Architect: Peikert Group Architects

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial Condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Adams/Boucher Motion to Reconsider the Preliminary Approval of October 19, 2007 was tabled for action at this meeting.)

**(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION
RESOLUTION NO. 030-06.)**

Commissioner Adams made the following comments regarding why a reconsideration motion was being made:

- a) Many details still needed to be worked on.
- b) Did not see drawings of south elevation, which had been previously requested to be modified.
- c) The project was not ready for preliminary approval.

Motion **Untable the motion to reconsider preliminary approval of the project.**

Action: Adams/Boucher, 8/0/0. (Curtis absent). Motion carried.

HLC MINUTES – October 17, 2007

PRELIMINARY REVIEW

5. 517 CHAPALA ST C-2 Zone
(2:05) Assessor's Parcel Number: 037-163-007
 Application Number: MST2005-00088
 Applicant: Peikert Group Architects LLC
 Applicant: H & R Investments
 Architect: Peikert Group Architects

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Review of revisions to project design.)

**(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION
RESOLUTION NO. 030-06.)**

Present: Devlet Peikert, Peikert Group Architects
Scott Hopkins, Peikert Group Architects

Public comment opened at 2:24 P.M.

Tony Fischer, attorney, spoke on behalf of the McFaddens and stated that they still oppose the project because their property is still impacted.

Tony Vasallo, a local resident, commented on the height of the ceilings of the condominium.

Karen McFadden, adjacent neighbor, opposed the project.

Kellam De Forrest, local resident, felt the building is still too massive and opposed the project.

Kathryn Dole, local resident, opposed the project.

Public comment closed at 2:38 P.M.

Public comment re-opened at 2:47 P.M.

Kathryn Dole, local resident, opposed the project.

Public comment re-closed at 2:50 P.M.

Motion:	Motion for a two week continuance with the following comments: On the South Elevation - 1) Provide a transition to the Victorian structure to the south. 2) Reduce the mass of building as it transitions to the south. 3) Provide separation and substantial landscaping. 4) Reduce the mass on the south side of the building. 5) In the driveway area, provide substantial landscaped areas, as there is too much paving. 6) At the Chapala Street elevation, provide more landscaping at the front of the building (36 inches required by the Planning Commission) and provide substantial plant materials including vertical canopy trees. 7) The west elevation needs to conform to the Planning Commission resolution for the eight foot plate height in the garage and to reduce the building height to match. It is too repetitive and massive. Try and recapture the charm of the original project. 8) At the south elevation, reduce the mass, perhaps by reducing a floor level, and provide substantial change in planting. Additionally, the windows be added as suggested by the Planning Commission. 9) The tower is not resolved yet because it is too tall. 10) The windows on Chapala Street are not appropriate for a middle level. 11) The proposed landscaping and paving materials on Chapala Street need to conform to the Chapala Street Design Guidelines. 11) Reduce the plate heights on residential units to ten foot maximum. 12) Have a landscape architect get involved in the project.
Action	Boucher/Sharpe, 4/2/1. (Hausz and Pujo opposed. Murray abstained. Curtis absent.) Motion carried.

HLC MINUTES – November 14, 2007

PRELIMINARY REVIEW

2.	517 CHAPALA ST	C-2 Zone
(1:50)	Assessor's Parcel Number:	037-163-007
	Application Number:	MST2005-00088
	Owner:	Montecito Bank & Trust, Trustee

Applicant: Peikert Group Architects, LLC

Applicant: H & R Investments

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Continued request for Preliminary Approval.)

**(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION
RESOLUTION
NO. 030-06.)**

Present: Detlev Peikert and Gordon Brewer, Peikert Group Architects
Rob Fowler, Landscape Architect

Public comment opened at 2:12 P.M.

Kellam De Forest, a local resident, opposed the project for the reason that the transition from the Victorian to the new structure is too harsh and asked whether the 2nd story commercial space could be removed.

George Ogle, a local resident, opposed the project.

Karen McFadden, neighboring resident, opposed the project.

Tony Vasallo, neighboring resident, opposed the project.

Tony Fischer, attorney on behalf of Mr. and Mrs. McFadden, opposed the project.

Public comment closed at 2:21 P.M.

Susan Gantz requested that she be notified by applicants about any changes to the project descriptions (such as square footages) so that the language will be correct in the agenda that is distributed to the public.

Straw Votes:

- 1) How many commissioners are comfortable with how the project is currently proposed? 3/6.
- 2) How many commissioners support the roof decks as proposed? 2/7.
- 3) How many commissioners are not in favor of roof deck on the Chapala street side? 3/6.
- 4) How many commissioners support the setbacks along the south elevation as presented with the five foot setback of the significant portion of the building? 0/9.
- 5) How many Commissioners would support an additional foot for a resulting 6 foot setback to extend back to the garage? 5/4.
- 6) How many commissioners are comfortable with the location of the garage on the property line? 7/2.
- 7) How many commissioners are comfortable with the 2nd and 3rd floors above the garage encroaching at the property line on the south elevation, facing the Victorian? 3/6.

- 8) How many commissioners are comfortable with the architecture? 8/1.
9) How many commissioners can support the Chapala street elevation as it addresses the sidewalk and providing landscape area as it presented? 5/4. (Three of those who dissented would require at least a 30 inch planter where the 20 inch planter is now).

Motion: Continued two weeks with the series of straw votes included as recommendations for the applicant to make the project approvable.

Action: Adams/Boucher, 8/1/0. (Murray opposed.) Motion carried.

HLC MINUTES – November 28, 2007

PRELIMINARY REVIEW

8. 517 CHAPALA ST C-2 Zone
(2:35) Assessor's Parcel Number: 037-163-007
Application Number: MST2005-00088
Architect: Peikert Group Architects
Owner: Montecito Bank & Trust, Trustee
Applicant: Peikert Group Architects LLC

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Continued request for Preliminary Approval.)

(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION RESOLUTION NO. 030-06.)

Present: Detlev Peikert, Peikert Group Architects
Gordon Brewer, Peikert Group Architects
Rob Fowler, Landscape Architect

Public comment opened at 2:45 P.M.

Kellam De Forest, a local resident, stated that the Commission has the power to deny projects and feels that they should deny this project because it is inappropriate for the surrounding area and it should be forwarded to the City Council to decide.

Tony Fischer, attorney, spoke on behalf of Karen McFadden, and stated that someone needs to look at the drawings closely and have them be submitted prior to the meetings. This would allow one to see how much surplus space could be taken out so that the building could be more. Additionally, he said that his client does not want large trees in their front yard. Lastly, he stated that the Applicant needs to refer to the Chapala Street Guidelines. Overall, he sees progression in the project.

Karen McFadden, a neighboring resident to the project, stated that the south elevation should be reduced and said that she has an issue with not knowing accurate square footage. She stated that she needs to know the accurate dimensions of the project in order to know if it can be reduced. However, she said that, overall, she was happy with the design, but that there are still some issues that need to be dealt with before it gets final approval.

Kathryn Dole, a neighboring resident to the project, stated that she approved the building itself but that this specific location is inappropriate for the building and asked the Commission to consider a denial of the project. She also expressed concern for the power lines and wanted them to be undergrounded. If that is not possible, the canopy trees would work.

Tony Vassallo, a local resident, commented about the questionable accuracy of the height and setbacks of the project.

Public comment closed at 2:58 P.M.

Motion: Preliminary approval of the project as submitted.

Action: Curtis/Pujo, 2/7/0. (Hausz, Adams, Boucher, Naylor, Murray, and Sharpe, opposed.) Motion failed.

Substitute

Motion: **To deny the project with the following findings:** The project is inconsistent with the Neighborhood Preservation Ordinance; **2)** The project is inconsistent with the Chapala Street Design Guidelines; **3)** The project is inconsistent with El Pueblo Viejo Design Guidelines; **4)** The project is inconsistent with the Urban Design Guidelines; **5)** The project is inconsistent with the preservation of, and has unmitigable impacts to, the adjacent Brinkerhoff Landmark District; **6)** Applicant has not provided the requested additional increase in landscaping along Chapala Street; **7)** Applicant has not increased the landscape buffer at the south elevation between the proposed project and the adjacent Victorian structure; **8)** Applicant has not reduced the three story element on the south elevation; **9)** There were concerns about the differential in square footage statistics on the drawings versus what was previously reviewed by the Planning Commission; **10)** Some Commissioners continued to be concerned about the roof decks and fourth story elements and tower; and **11)** Air conditioning equipment and solar panel locations need to be shown on the plans as hidden from public view.

Action: Boucher/Sharpe, 7/2/0. (Pujo and Curtis opposed.) Motion carried.

517 Chapala Street- Project Review Chronology

02-14-2005 PRT/Planning Commission application received

03-04-2005 Optional mailed notice waived by applicant for neighbors within 100 feet

03-16-2005 HLC Concept Review- Project forwarded to Planning Commission with comments

04-21-2005 Planning Commission Concept review- Lunch Meeting

12-19-2005 PC/DART Application #1 received for 30 day review

02-02-2006 PC/DART Application #2 received for 30 day review

05-31-2006 PC/DART Application deemed complete

06-28-2006 Required mailed notice sent to neighbors within 300 feet

07-13-2006 Planning Commission Project Approval granted by 7/0/0 vote

07-24-2006 Appeal filed to City Council of Planning Commission Approval decision

09-18-2006 Council appeal withdrawn of Planning Commission Approval decision

11-15-2006 HLC Preliminary Review Hearing- Project Continued with comments

08-08-2007 HLC Preliminary Review Hearing- Project Continued with comments

09-05-2007 HLC Preliminary Review Hearing- Project Continued with comments

09-19-2007 HLC Preliminary Approval granted by 4/3/2 split vote

10-03-2007 HLC Motion for Reconsideration 0/0/0/ - Motion tabled to next HLC meeting

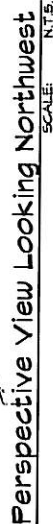
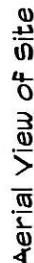
10-17-2007 Reconsideration of Project Preliminary Approval of 9-19-2007 decision by 8/0/0 vote

10-17-2007 HLC Preliminary Review Hearing- Project Continued with comments

11-14-2007 HLC Preliminary Review Hearing- Project Continued with comments

11-28-2007 HLC Preliminary Review Hearing- Project denied by 7/2/0 vote

12-4-2007 Appeal filed of HLC Preliminary approval decision.



COVER SHEET

517 Chapala Mixed-Use

517 Chapala Street, Santa Barbara, California 93101

02/02/06

[illegible]

Preliminary Plant List & Legend

Botanical Name	Common Name
<i>Chapala Street Trees</i>	
<i>Archontophoenix cunninghamiana</i>	King Palm
<i>Uplight Skyline Trees</i>	
<i>Tristania conferta</i>	Driftwood Tree
24" Box	
<i>Acacia</i>	
<i>Chorisia speciosa</i>	Pink Silk Tree
24" Box	
<i>Small Canopy/Ornamental Tree</i>	
<i>Melaleuca boronia 'Green Showers'</i>	Myall Tree
24" Box	
<i>Tristania imbricaria</i>	Pink Trumpet Tree
24" Box	
<i>Medium Shrub</i>	
<i>Manihot glabra 'Clara'</i>	India Hawthorne
9 Gallon, 2'-6" o.c.	
<i>Groundcover and Vines</i>	
<i>Distichlis spicata</i>	Vanilla Trumpet Vine
15 Gallon	
<i>Trachyspermum jamaicense</i>	Star Jasmine
1 Gallon, 2'-6" o.c.	
<i>Bearded Iris</i>	Bearded Iris
1 Gallon	
<i>Entry Accent</i>	
<i>Camellia japonica Alba Plena'</i>	Camellia
15 Gallon	
<i>Apples</i>	
1 Gallon, 2'-6" o.c.	
<i>Planting - Vines & Accent Plants</i>	
<i>Common Clematis</i>	
<i>Red Clematis</i>	
<i>Red Clematis</i>	
<i>Trailing Rosemary</i>	
<i>Quail Improved Meyer Lemon</i>	
<i>Bouvardia</i>	
<i>Bouvardia</i>	

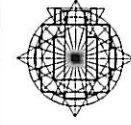
Notes:
 1. Number of each species to be determined.
 2. Irrigation Plan to be included with Building Permit Submittal.

GROUND LEVEL LANDSCAPE PLAN

517 Chapala Mixed-Use

517 Chapala Street, Santa Barbara, California 93101

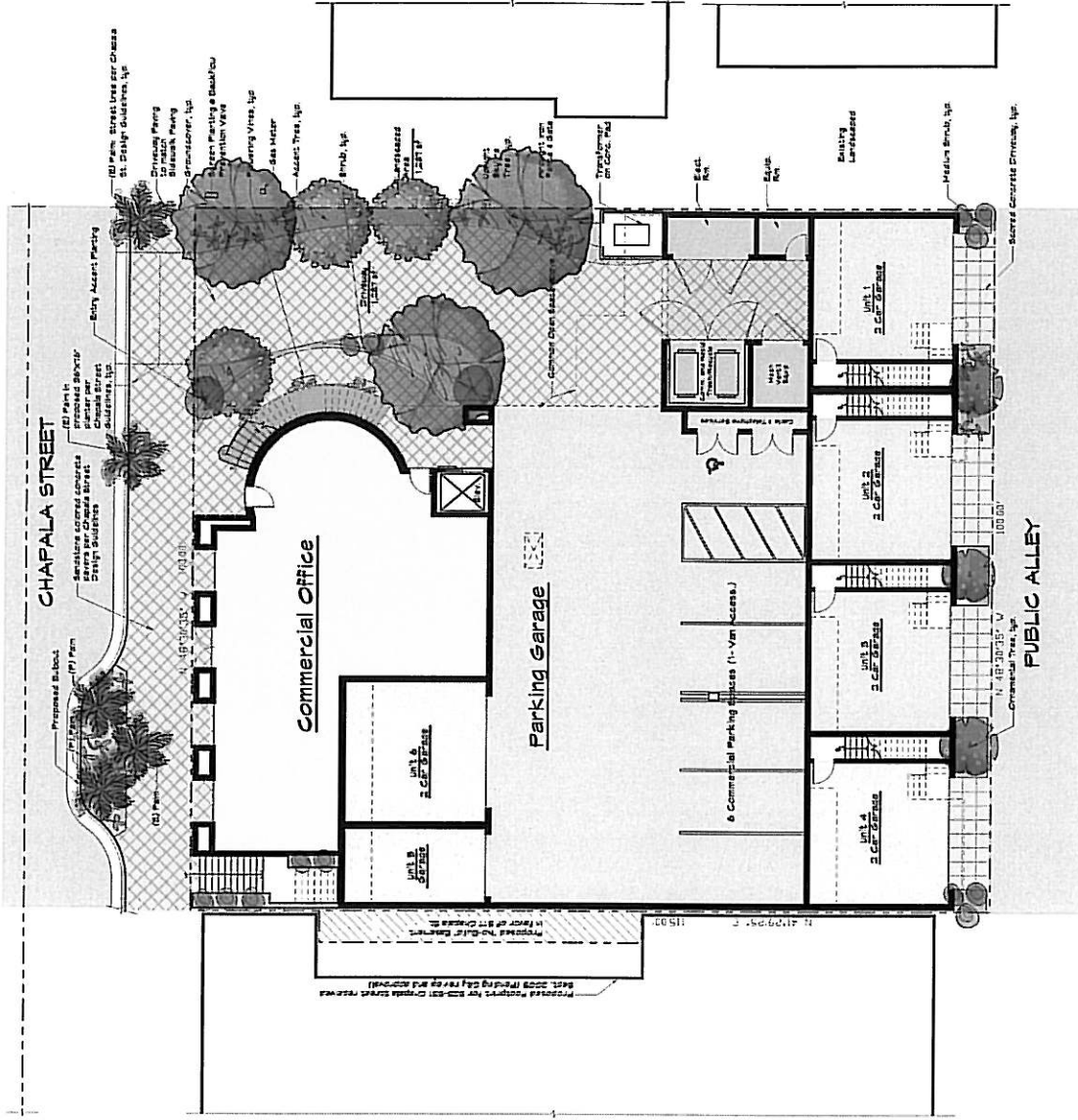
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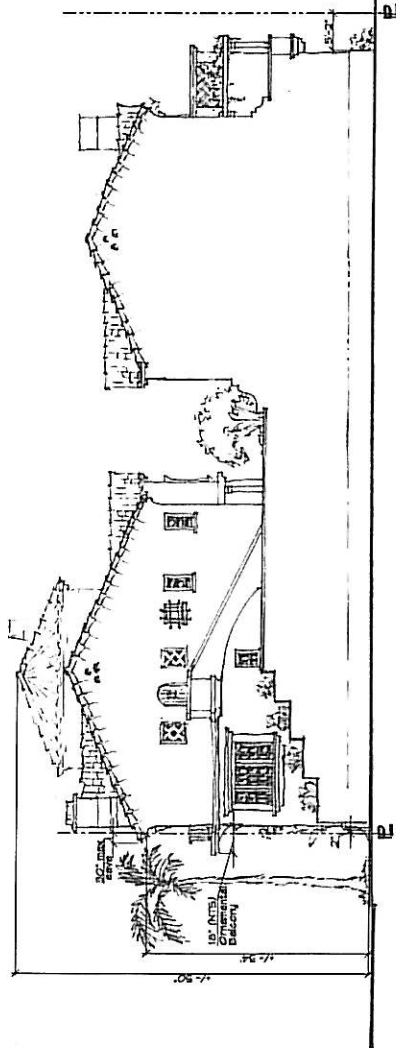


Peikert Group
 Architects, LLP
 10 E. FIGUEROA STREET, SUITE 1
 SANTA BARBARA, CA 93101
 PHONE: 805.963.8283
 FAX: 805.963.8184

7

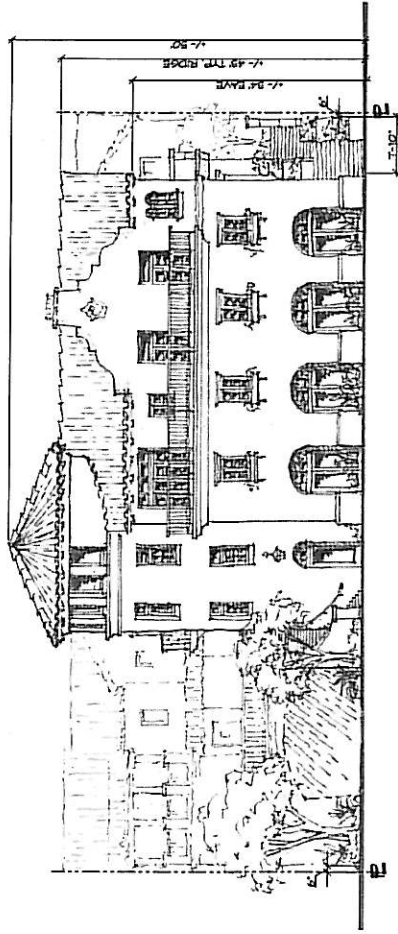
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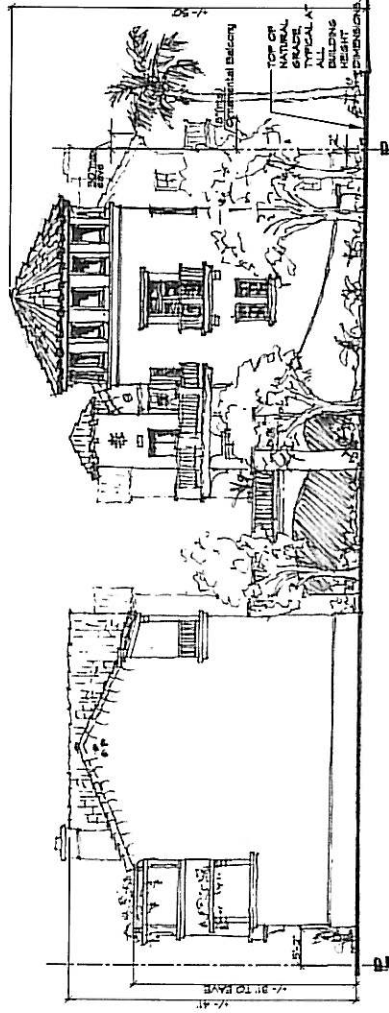
North Elevation

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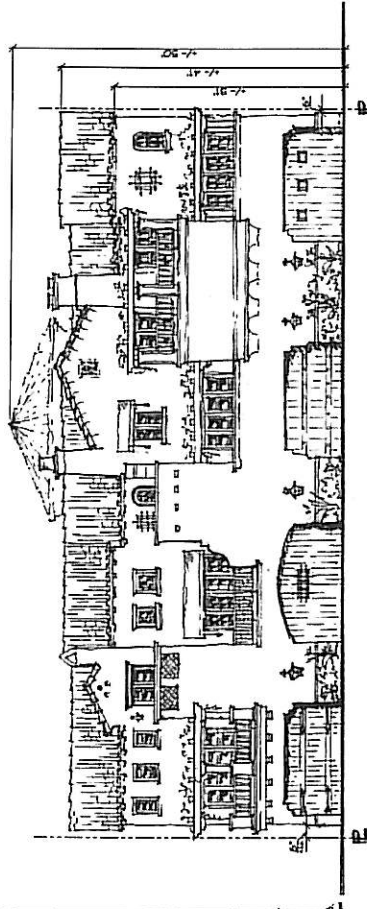
East Elevation

SCALE: 1/8" = 1'-0"



South Elevation

SCALE: 1/8" = 1' - 0"



West Elevation

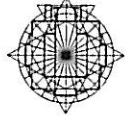
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BUILDING ELEVATIONS

517 Chapala Mixed-Use

517 Chapala Street, Santa Barbara, California 93101

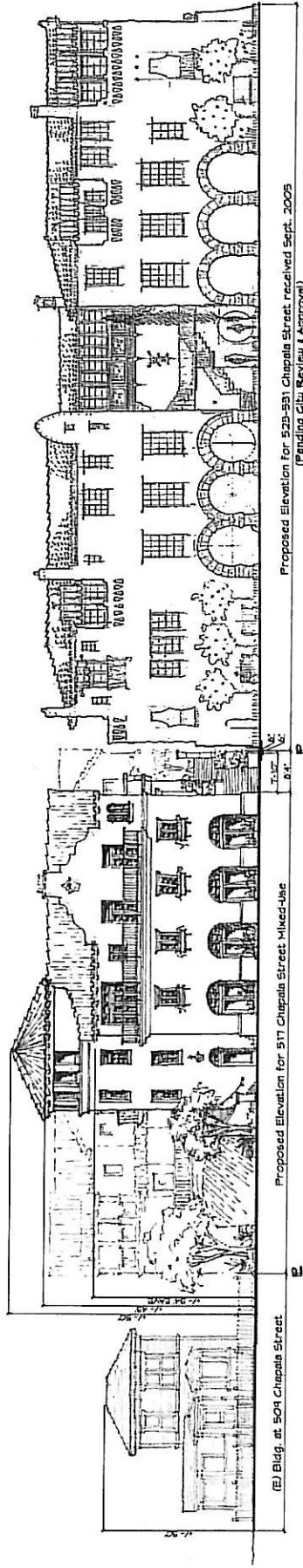
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Architects, LLP

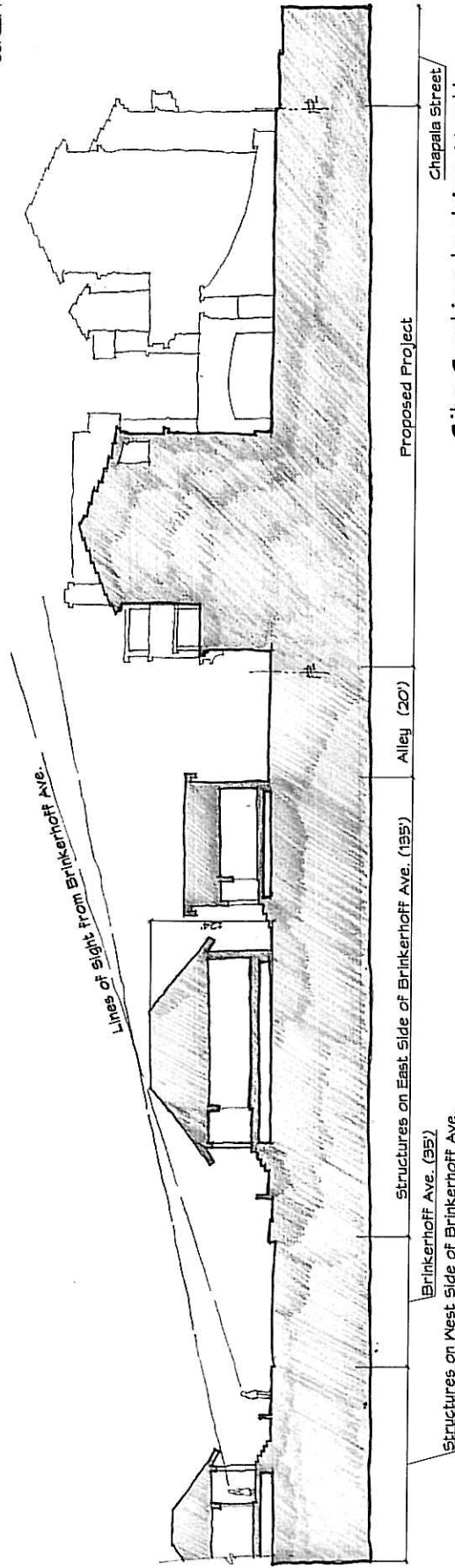
10 E. FIGUEROA STREET, SUITE 1
SANTA BARBARA, CA 93101
PHONE: 805.963.8283
FAX: 805.963.8184





Chapala Street Elevation

SCALE: 1" = 10'-0"



Site Section looking North

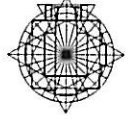
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SITE SECTION & COMPOSITE EAST ELEVATION

517 Chapala Mixed-Use

517 Chapala Street, Santa Barbara, California 93101

12/16/2005



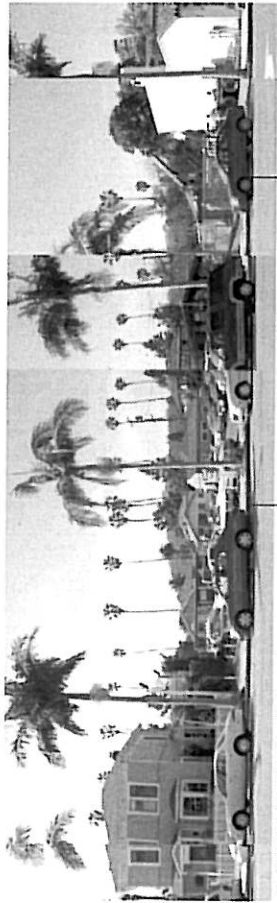
**Peikert Group
Architects, LLP**

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SANTA BARBARA, CA 93101
PHONE: 805.963.8183
FAX: 805.963.8184

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517 Chapala Mixed-Use

Santa Barbara, California



② Chapala Street Frontage Photomontage
SCALE 1" = 1'

Sheet Index

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100	Site Plan



③ Aerial View of Site
SCALE 1" = 1'

Project Data

PROJECT LOCATION
517 Chapala Street, Santa Barbara, California 93101

PROJECT DESCRIPTION
A proposed mixed-use development consisting of a three-story building with ground-floor retail and upper-floor residential units. The project is located on Chapala Street, which is a major thoroughfare in Santa Barbara. The site is currently vacant and is surrounded by existing commercial and residential buildings.

PROJECT OWNER
Pellier Group Architects, LLP

PROJECT ARCHITECT
Pellier Group Architects, LLP

PROJECT ENGINEER
Pellier Group Architects, LLP

PROJECT LANDSCAPE ARCHITECT
Pellier Group Architects, LLP

PROJECT PLANNING
Pellier Group Architects, LLP

PROJECT CONSULTANTS
Pellier Group Architects, LLP

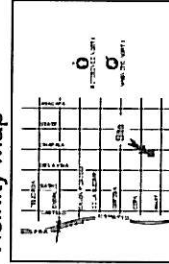
PROJECT SCHEDULE
The project is currently in the planning phase and is expected to be completed by the end of 2011.

PROJECT BUDGET
The project budget is approximately \$10 million.

PROJECT RISK
The project is subject to various risks, including changes in market conditions, delays in permitting, and construction cost overruns.

Item	Description	Quantity	Unit	Price	Total
1	Site Preparation	1	Lot	\$1,000,000	\$1,000,000
2	Foundation	1	Foundation	\$2,000,000	\$2,000,000
3	Structural Steel	1	Structural Steel	\$3,000,000	\$3,000,000
4	Exterior Walls	1	Exterior Walls	\$1,500,000	\$1,500,000
5	Interior Walls	1	Interior Walls	\$1,000,000	\$1,000,000
6	Floors	1	Floors	\$1,000,000	\$1,000,000
7	Roofing	1	Roofing	\$500,000	\$500,000
8	Landscaping	1	Landscaping	\$500,000	\$500,000
9	Permitting	1	Permitting	\$500,000	\$500,000
10	Construction Management	1	Construction Management	\$500,000	\$500,000
11	Professional Fees	1	Professional Fees	\$500,000	\$500,000
12	Contingency	1	Contingency	\$500,000	\$500,000
13	Other	1	Other	\$500,000	\$500,000
14	Subtotal				\$10,000,000
15	Grand Total				\$10,000,000

Vicinity Map



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**517 Chapala
Mixed-Use**
517 Chapala Street, Santa
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H & R Architects
2020 Sycamore Canyon,
Montecito, California
93105

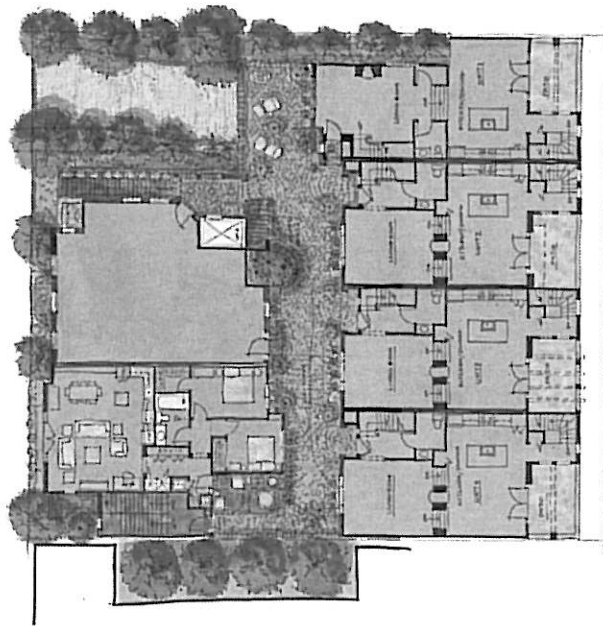
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517 Chapala Mixed-Use

Project Number
001

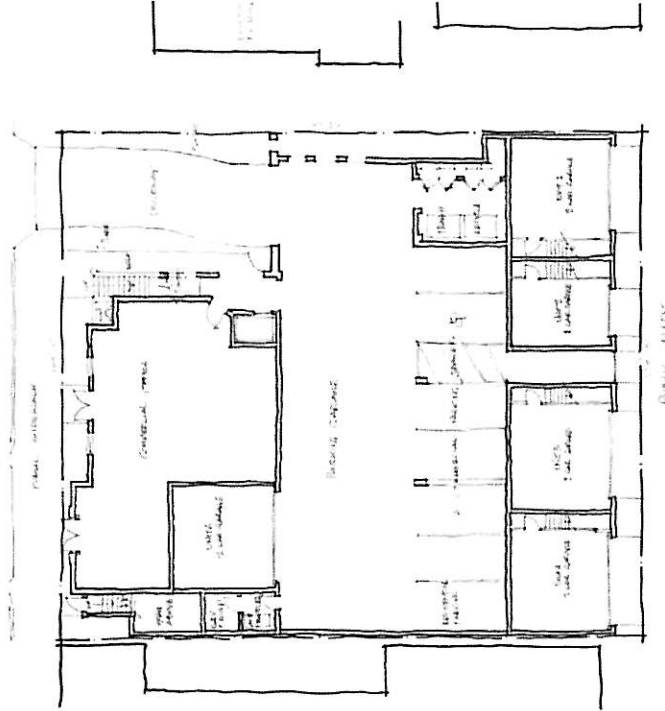
Project Name	Project Number
517 Chapala Mixed-Use	001

Cover Sheet

G0.01



Level 2 Floor Plan



Level 1 Floor Plan



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Architects, LLP**
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San Francisco, CA 94101
Tel: 415.433.2273
Fax: 415.433.8184
www.pelkertgroup.com

517 Chapala
Mixed-Use

517 Chapel Street, Santa
Barbara, California 93101

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Project Number	00-000000
Sheet No.	1
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Levels 1 & 2 -
Rendered Plans

A2.10



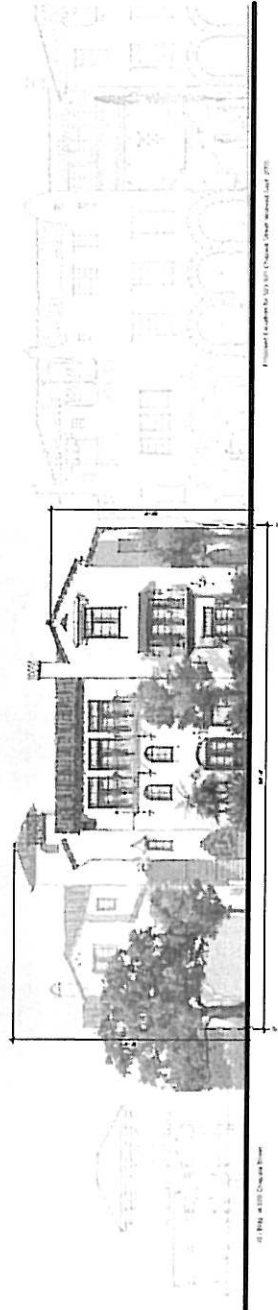
V&A
Pallant Group
Architects, LLP
1417 Chapala Street, Suite 100
Berkeley, CA 94704
Tel: 415.863.1233
Fax: 415.863.1234
www.vandaa.com

**517 Chapala
Mixed-Use**
517 Chapala Street, Suite 100
Berkeley, California 94704
H.A. R. Investments
2650 Sycamore Canyon,
Montezuma, California
95108

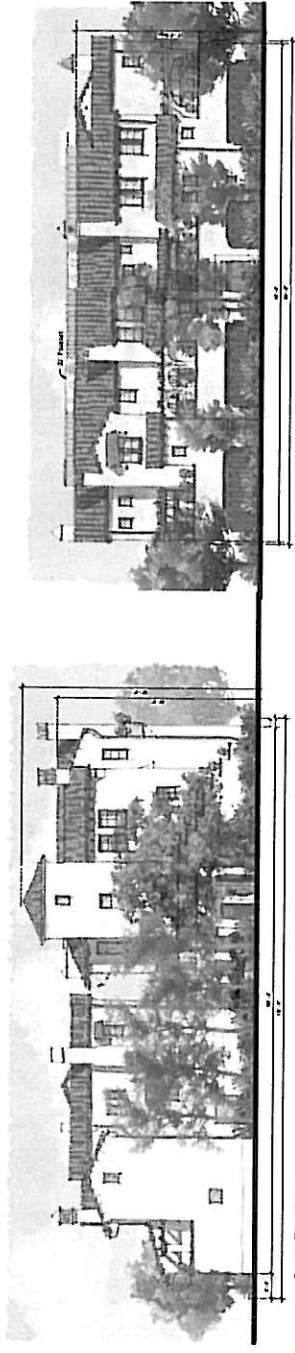
These drawings are prepared by V&A Architects, LLP, a registered architectural firm in the State of California. The drawings are prepared for the project described above and are not to be used for any other project without the written consent of V&A Architects, LLP. The drawings are the property of V&A Architects, LLP and shall remain confidential. No part of these drawings shall be reproduced or transmitted in any form or by any means electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the prior written permission of V&A Architects, LLP.

Project Name	517 Chapala
Location	Berkeley, CA
Architect	V&A Architects, LLP
Client	H.A. R. Investments
Project Number	517-001
Revision	1
Date	10/1/11
Drawn By	JD
Checked By	JD
Approved By	JD

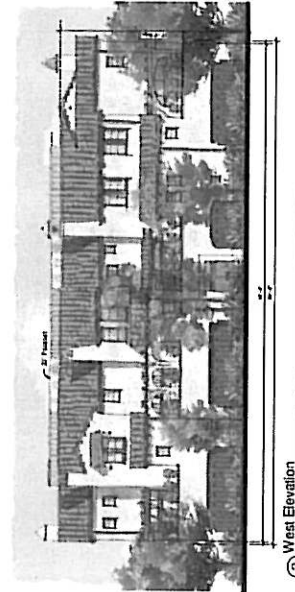
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A5.11



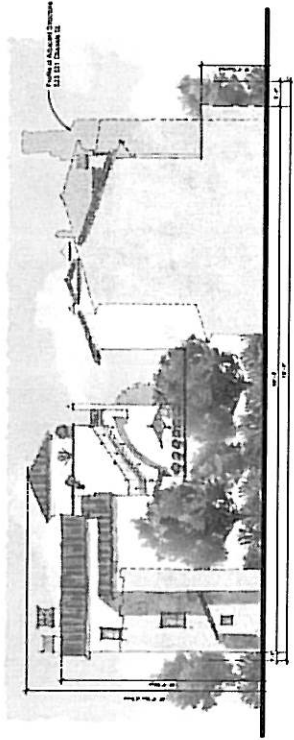
1 Chapala Street Elevation
SCALE: 1/8"=1'-0"



3 South Elevation
SCALE: 1/8"=1'-0"



2 West Elevation
SCALE: 1/8"=1'-0"



4 North Elevation
SCALE: 1/8"=1'-0"



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 030-06

517 CHAPALA STREET

MODIFICATIONS, DEVELOPMENT PLAN, TENTATIVE SUBDIVISION MAP

JULY 13, 2006

**APPLICATION OF PEIKERT GROUP ARCHITECTS FOR H & R INVESTMENTS, LP,
PROPERTY OWNER, 517 CHAPALA STREET, APN 037-163-007 & -008, C-2,
COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE
(MST2005-00088)**

The proposed project consists of a lot merger, the demolition of 1,300 square feet of commercial space and the construction of a three-story, mixed-use development with six residential condominium units totaling 9,999 square feet (net), two commercial condominium spaces totaling 2,872 square feet (net) and seventeen parking spaces. The project includes a request for one additional residential unit pursuant to State Density Bonus law. The proposed mix of units consists of one (1) three-bedroom market rate unit, four (4) two-bedroom market rate units and one (1) two-bedroom moderate income affordable unit.

The discretionary applications required for this project are:

1. A Modification to allow the required ten percent open space area to be provided on the second floor (SBMC§28.21.080.F);
2. A Modification of the lot area requirement to allow the one-bedroom market rate unit to have two bedrooms instead of one bedroom (SBMC§28.21.080.G);
3. A Modification of the lot area requirement to allow the third floor market rate unit to have three bedrooms instead of two bedrooms (SBMC§28.21.080.G);
4. Development Plan Approval for 1,572 square feet (net) of new nonresidential square footage (SBMC§28.87.300); and
5. A Tentative Subdivision Map to allow a one-lot subdivision to create six residential condominium units and two commercial condominium units (SBMC§27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15332 (infill development project).

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 2 people appeared to speak in support of and in opposition to certain aspects of the application, and 2 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 13, 2006.

2. Site Plans
3. Correspondence received in support of and in opposition to certain aspects of the project:
 - a. Caroline and Tony Vassallo, 514 Brinkerhoff Avenue.Correspondence received in opposition to the project:
 - a. Karen McFadden, 505 and 509 Chapala Street.

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

- I. Approved the subject application making the following findings and determinations:

The Planning Commission finds the following:

A. *Modification of Open Space and Lot Area (SBMC§28.21.080)*

The modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on a lot and construct a housing development which is affordable to moderate-income households.

B. *Development Plan Approval (SBMC§28.87.300)*

1. The proposed development complies with all provisions of the Zoning Ordinance, can be found consistent with the purpose and intent of the Ordinance and the proposed project is an appropriate use for the neighborhood; and
2. The proposed development is consistent with the principles of sound community planning. The proposed mixed-use project would allow for additional residential units and commercial spaces in the West Downtown area, and is consistent with the existing mix of uses in the surrounding neighborhood; and
3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood; and
4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock since the proposal involves the addition of seven residential units in the City's housing stock including one unit affordable to moderate income households; and
5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources because the City currently has a sufficient dependable water supply to serve this project; and
6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic because the proposed use will meet its parking demand for the site and vehicle trips associated with the use will not significantly impact the City's street network.

C. *Tentative Subdivision Map (SBMC §27.07.100)*

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development, the project is consistent with the variable density provisions of the Municipal Code and the General Plan, and the proposed use is consistent with the Land Use Element and zoning designation for the site, and the vision for this neighborhood in the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems or conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

D. *New Condominium Development (SBMC §27.13.080)*

1. *The project complies with all provisions of the City's Condominium Ordinance.*

The project complies with the density requirements and each unit includes adequate covered parking with storage, laundry facilities, separate utility metering, adequate unit size and required private outdoor living space.

2. *The proposed development is consistent with the General Plan of the City of Santa Barbara.*

The project is consistent with policies of the City's General Plan including the Land Use Element, Housing Element, Conservation Element, Noise Element and Circulation Element. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources. The project will provide infill residential and commercial development in the Downtown that is compatible with the surrounding neighborhood.

3. *The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.*

The project is an infill mixed-use project proposed in an area where residential and commercial uses are permitted. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. Adequate park facilities exist nearby, and the project would not adversely impact other community resources, such as water, sewer, police, fire, and schools. The design has been reviewed by the City's design review board, which found the architecture and site design appropriate.

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Planning Commission and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession and enjoyment of the Real Property:

A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property" which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to the Real Property or any adjoining property.
2. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
4. **Ownership Unit Affordability Restrictions.** The dwelling unit designated as Unit Five on the approved site plan shall be designated as a Moderate Income Affordable Unit and sold only to and occupied only by a household that qualifies as a Moderate Income Household as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale price upon initial sale shall not exceed \$215,200.

The Affordable Unit shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Unit shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least forty-five (45) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

5. **Approved Development.** The development of the Real Property approved by the Planning Commission on July 13, 2006 is limited to the construction of a mixed-use development with six residential condominium units totaling 9,999 square feet (net), two commercial condominium spaces totaling 2,872 square feet (net), sixteen parking spaces, with an access from the alley to the main garage for residents, and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.

6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium parcels.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
 - d. **Trash and Recycling.** Adequate space shall be provided and maintained for trash and recycling purposes.
 - e. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
 7. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance and most currently adopted Energy Code. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
 8. **Street Tree Protection.** The street trees within the City's right-of-way shall be preserved and protected.
 9. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain the drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the Operations and Maintenance Procedure Plan approved by the Building Official and/or the Public Works Director.
 10. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
- B. **Design Review.** The following is subject to the review and approval of the Historic Landmarks Commission (HLC):
1. **Chapala Street Streetscape Design Guidelines.** The project shall comply with the Chapala Street Streetscape Design Guidelines.

2. **South Elevation.** Provide articulation of blank wall along rear building through use of windows, shutters, landscaping or other means deemed appropriate.
 3. **Balconies.** The third story balconies shall be reduced to the minimum dimensions required by the Zoning Ordinance.
 4. **Residential Garage Plate Height.** The residential garage plate height will be lowered to a floor-to-floor of approximately nine feet; subsequently, the building above it will be reduced accordingly.
 5. **Garage Access.** Provide access from the residential garages to the elevator by reducing the two-car garage of Unit 2 to a one-car garage.
 6. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
- C. **Public Works Submittal Prior to Final Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Final Map for the project:
1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.
 2. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. Said agreement will be prepared by Engineering Division Staff for the Owner's signature.
 3. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project.
 4. **Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Chapala Street. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards: new sidewalk subject to the Chapala Street Streetscape Design Guidelines, driveway apron modified to meet Title 24 requirements, curbs, gutters, apply crack seal to the centerline of the street along entire subject property frontage, underground service utilities, connection to City water and sewer mains, private on-site drainage conveyance system including trench slot drain and public curb drain outlets, preserve and/or reset survey monuments, supply and install directional/regulatory traffic control signs, storm drain stenciling, on-site pollution prevention interceptor device, drought-tolerant parkway landscaping, street trees, and tree grates subject to Chapala Street Streetscape Design Guidelines, and provide adequate positive drainage from site. The building

plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.

5. **Land Development Agreement.** The Owner shall submit an executed Agreement for Land Development Improvements, prepared by Engineering Division Staff, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
 6. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way (easement).
 7. **Voluntary Merger Required.** The Real Property known as APN 037-163-007 and APN 037-163-008 shall be merged into one lot as a part of the Final Map.
- D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Recordation of Final Map/Merger and Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.
 2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
 3. **Storm Drain Operation and Maintenance Plan Required.** The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing filters, etc.) for the operation and use of the storm drain system. The Plan shall be approved by the Creeks Division, Building and Safety Division, and the Public Works Department.
- E. **Community Development Requirements Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:
1. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses and residents within 450 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to

being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

2. **Discussions regarding alley.** The applicant is encouraged to contact the owners of the properties north and south of the project and the adjacent property owners across the alley in the Brinkerhoff Landmark District to assemble a committee to discuss and pursue improvements to the alley for the benefit of all.
3. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions and Conditions of Approval. Submit a copy of the notice to the Planning Division.
4. **Archaeological Monitoring Contract.** Submit to the Planning Division a contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during all ground disturbing activities associated with the project, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground clearance in the areas identified in the Phase 1 Archaeological Resources Report prepared for this site by Stone Archaeological Consulting, dated April 2006. The contract shall be subject to the review and approval of the Planning Division.

The archaeologist's monitoring contract shall include the following provisions: If cultural resources are encountered or suspected, work shall be halted or redirected by the archaeologist immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, preparation of further site studies and/or mitigation.

If the discovery consists of possible human remains, the Owner shall contact the Santa Barbara County Coroner immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. The Owner shall retain a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, the Owner shall retain a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

5. **Environmental Site Assessment Final Report Contract.** Submit to the Planning Division a copy of the contract with Groundwater Solutions Inc. or other appropriate consultant for fieldwork as recommended in the Phase I Environmental Site Assessment Report dated June 2005.
 6. **Recorded Affordability Control Covenant.** Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, and recorded in the Office of the County Recorder, which includes the following:
 - a. **Initial Sale Price Restrictions.** The dwelling unit designated as Unit Five on the approved site plan shall be designated as an Moderate Income Affordable Unit and sold only to and occupied only by a household who qualifies as a Moderate Income Household as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale price upon initial sale shall not exceed \$215,200.
 - b. **Resale Restrictions.** The Affordable Unit shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale price of the Affordable Unit shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least forty-five (45) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.
 7. **Final Planning Commission Resolution Submittal.** *[use as appropriate]* The final Planning Commission Resolution shall be submitted, indicating how each condition is met with drawing sheet and/or note references to verify condition compliance. If the condition relates to a document submittal, describe the status of the submittal (e.g., Final Map submitted to Public Works Department for review), and attach documents as appropriate.
- F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Historic Landmarks Commission.
 2. **Interior Noise Analysis Report.** To confirm that the proposed project complies with the City requirements regarding interior noise, an interior noise analysis report shall be submitted along with the building permit application.
 3. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

4. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
5. **Commercial Dumpsters.** Commercial dumpsters shall be provided, including an equal area for recycling containers. Dumpsters shall not be placed within five feet (5') of combustible walls, openings or combustible roof eaves lines unless sprinkler coverage is provided.
6. **Water-Conserving Fixtures.** All plumbing fixtures shall be water-conserving devices in new construction, subject to the approval of the Water Resources Management Staff.
7. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner

Date

Contractor

Date

License No.

Architect

Date

License No.

Engineer

Date

License No.

G. Construction Implementation Requirements. All of these construction requirements shall be carried out in the field for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of containers for collection of demolition/construction materials.
2. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
3. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Public Works Director.
4. **Haul Routes.** The haul route(s) for all construction-related trucks, three tons or more, entering or exiting the site, shall be approved by the Public Works Director.
5. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1 st *
Martin Luther King's Birthday	3 rd Monday in January
Presidents' Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th *
Labor Day	1 st Monday in September
Thanksgiving Day	4 th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25 th *

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

6. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.
7. **Water Sprinkling During Grading.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.
8. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.

9. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
 10. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
 11. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
 12. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 13. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
 14. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
 15. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed in a timely manner may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
- H. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements caused by construction for curbs, gutters, sidewalks, etc., subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility undergrounding and installation of street trees.
 3. **Backflow Device.** Provide an approved backflow device placed on the property side of consumer's service pursuant to Santa Barbara Municipal Code Section 14.20.120.

4. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial residents; and (d) the recorded affordability control covenants signed by the initial purchasers which assure continued compliance with the affordability conditions.
 5. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to the issuance of the Certificate of Occupancy, whichever is earlier.
 6. **Environmental Site Assessment Confirmation Report.** A final report on the results of the fieldwork recommended in the Phase I Environmental Site Assessment report shall be submitted to the Planning Division within 180 days of completion of the fieldwork or prior to the issuance of the Certificate of Occupancy, whichever is earlier.
 7. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
- I. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.
- Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses and costs of that independent defense.

NOTICE OF DEVELOPMENT PLAN TIME LIMITS:

The development plan approved, per Santa Barbara Municipal Code §28.87.350, shall expire four (4) years from the date of approval unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. A time extension is granted by the Planning Commission for one (1) year prior to the expiration date of the approval, only if it is found that there is due diligence to implement and complete the proposed project. No more than one (1) time extension may be granted.

NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 13th of July, 2006, by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.

Gabriela Feliciano, Commission Secretary

Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.

CORRESPONDENCE

Tony Fischer
Attorney at Law
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Santa Barbara CA 93105
805 563 6784
805 456 3881 (fax)
fischlaw@cox.net

September 27, 2007

Mayor Marty Blum and Members of the City Council
City of Santa Barbara
City Hall
735 Anacapa Street
Santa Barbara, CA 93101

Steve Wiley, City Attorney
Office of City Attorney
749 State Street, Suite 201
Santa Barbara CA 93105
Via email and fax and hand-delivery

Re: HLC review of project at 517 Chapala Street.

**Dear Honorable Mayor Blum, Members of City Council and
City Attorney Steven Wiley:**

This letter brings to your attention the actions of the HLC on Wednesday, September 19, 2007 and to request that you take immediate and appropriate action to correct what were clearly procedural and substantive errors in the granting of a "preliminary approval" of a proposed plan without adequate information and drawings to know what is intended to be approved. In summary, as appears from the video of the September 19 meeting with 7 of 9 members present, a majority of the HLC had serious concerns with the elevations and various aspects of the size, bulk, scale, site design and building design. Not one Commissioner was ready to give an unqualified preliminary approval of the project drawings being reviewed. The 4-3 vote to grant preliminary approval, after a prior motion for preliminary approval with conditions failed on a 3-4 vote, calls for numerous revisions to be considered in the future. The nature and scope of the future revisions are not part of the public record. This piecemeal approval is contrary to HLC traditional handling of projects and is contrary to its adopted procedures and requirements. It restricts meaningful public review, may force multiple appeals. In addition, the processing, as stated below, reduces the role of HLC to a commission less important than the Planning Commission; not the role given to HLC by the voters.

History of Review:

February 14, 2005: This project's initial application date appears in some city files. Significant to project review, the project is located next to historically significant Victorian buildings and the historically significant Brinkerhoff district. It is adjacent to a project under construction on the same block which, when combined with the proposed project, will appear to the public from Chapala street to be larger in size, bulk and scale than the other projects under construction which are causing serious questions and concerns regarding whether the standards of the City were appropriately applied

March 16, 2006: The mixed-use project proposed at 517 Chapala received a concept review by HLC.

July 13, 2006: Planning Commission's hearing date. The conditions of approval include design review requirements. The Planning Commission did not find the elevations and design acceptable. Its Resolution requires compliance with the Chapala Street Design Guidelines. The City adopted the Chapala Street Design Guidelines on December 14, 2004. The Guidelines require consideration of impact on existing neighboring buildings. Page 10 of the Guidelines lists numerous historic and noteworthy buildings which would be negatively impacted by this development. Some of the design aspect considered unacceptable by the Planning Commission have not been satisfied by the plan reviewed on September 19, 2007.

It is important to remember that Planning Commission approval is in addition to and not a substitute for HLC's traditional and additional requirements as mandated by the City Charter and implemented in Chapter 22.22 of the Municipal Code. Until the changes required by the Planning Commission resolution and any further changes required by HLC are presented for review and approval, no preliminary approval is possible or appropriate.

Planning Commission review was more than 14 months ago. During that time, the City Council has appointed new members to HLC and many in the community, including HLC, Planning Commission, and City Council members have reacted negatively to size, bulk, scale and lack of neighborhood compatibility of projects under construction on Chapala Street. As a result there is occurring a needed change in project evaluation. This project has many of the same characteristics as projects under construction.

On September 19, 2007, the HLC continued its review from a prior meeting.

Contrary to the requirement of the City Charter, Chapter 22.22 of the Municipal Code and the Planning Commission's resolution, staff's comments to HLC, echoed in part by the vice chair and the applicant, strongly suggested to HLC members that it has limited authority to reject the size, bulk scale, site design or architecture after Planning Commission approval. Staff's comments were misleading and wrong. When the Urban Design Guidelines are taken into consideration, the project fails to meet the requirements for compatibility with the historic structures in the neighborhood, compatible and appropriate setbacks, landscaping provided on

the project site (not on adjacent property), and design elements which do not have a negative impact on the adjacent Victorian buildings.

Eventually during the meetings on September 19, 2007, HLC engaged in a somewhat confusing progression from several straw votes against various elements of the proposed project to a failed motion (3-4) for preliminary approval. After further discussion about “process” and whether the HLC should be designing the project for the applicant, the vice chair entertained a new motion which included a preliminary approval which voiced prior concerns and required redesign of the Chapala Street elevation; leaving all of those important decisions regarding elevations, landscaping, site design and the very important Chapala Street frontage to be proposed and considered at future meetings. The motion did not include findings related to compliance with the Chapala Street Design Guidelines, Urban Design Guidelines, Chapter 22.22 of the Municipal Code and did not include any reference to compliance with the Environmental Quality Act. In view of the significance of the preliminary approval stage of design review of a project, if the preliminary approval is not determined by the City Council and/or the City Attorney to be invalid, appeal of the September 19, 2007 vote is the only way to protect from claims that the applicant has the right to proceed to submit for final approval based upon the preliminary approval. The motion for approval, absent actual designs, does not define the project. Another undefined part of the project is the proposed 40’ by 40’ blank wall next to the Victorian; a project design unacceptable to both the Planning Commission and HLC.

Other grounds for an appeal exist:

- The absence of an initial study and environmental review is not consistent with the Chapala Street Design Guidelines. HLC is not exempt from the requirement to review proper environmental information.
- Until the reviews and approvals required by Chapter 22.22 of the Municipal Code have been completed, no final approval of the project can exist.
- The upper levels of the project and the size bulk and scale of the project are directly contrary to the clear language of the Chapala Street Design Guidelines and the Urban Design Guidelines. A copy of pertinent pages of the Guidelines is attached.
- HLC has not articulated findings required by Chapter 22.22 of the Municipal Code.
- An adequate landscape plan has been promised but not provided. The project needs to provide the needed landscaping on its own site and should not rely upon neighboring properties, including the City, to attempt to soften the negative impact of the project.

At the September 19, 2007, Staff, apparently unduly concerned with the impact of a denial by HLC after a Planning Commission favorable vote, did not caution HLC of the problems of piecemeal preliminary approvals. As should be well known to staff and HLC members, a “preliminary approval” ties the hands of the HLC for future review of the project. It puts the HLC in the role of designing the project for the applicant instead of review of the design of the project. Preliminary approval is an important step in the review process and can only occur after review to determine compliance with zoning, general plan, basic building requirements, traffic flow, circulation requirements and all of the other elements within the purview of the HLC. Partial preliminary approval subject to future proposals is a flawed concept. Common sense

Re: HLC Review of 517 Chapala Street
Date: September 27, 2007
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suggests strongly that to approve a design, a committee must first be presented with drawings, designs and elevations deemed acceptable. A positive vote for unseen changes is contrary to the requirement that an applicant actually submit designs and drawings for review by the review body.

Based upon the above, we respectfully request that the City Council and its attorney take appropriate action to prevent the need for piecemeal and/or multiple appeals of the action(s) of the HLC.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tony Fischer". The signature is written in a cursive, flowing style.

**Tony Fischer,
Attorney for Pat and Karen McFadden**

Attachment: Chapala Street Design Guidelines

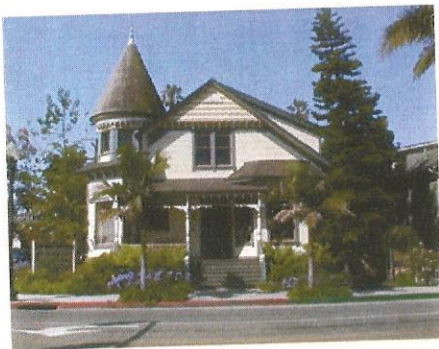
through town. Both corners of the 500 block were developed with the then-fashionable L-shaped gas stations, housing Freeze and Freeze Auto Supplies, at Cota Street and the Fred Whaley/Firestone Tire building at Haley Street. Further north on Chapala Street were several garages, auto repair shops, and gas and oil shops.

In 1923, the Chamber of Commerce, with the backing of Charles Storke, the editor of the Santa Barbara News Press, put forth the idea of widening Chapala and Anacapa Streets, flanking the commercial State Street, into two dramatic boulevards which would lead to Cabrillo Street and the Pacific Ocean. This grand scheme was not realized, however; the Chamber of Commerce instead focused in 1924-1925 on widening Chapala Street from 60 to 80 feet from West Montecito Street to Victoria Street. At this time the present streetlights were added, an important historic streetscape element. The new width destroyed the more intimate scale of Chapala Street as a mixed use street, pushing it more towards commercial growth and development.

Currently the street is a mix of residences, concentrated in the 500 and 600 blocks, as well as used car lots, auto-related shops, commercial buildings, restaurants, and the two-block Paseo Nuevo. New mixed use residential and commercial development is slated for the south side of Chapala Street in the 400 block.

A number of historic buildings are located along Chapala Street between Montecito and Carrillo Streets. These are as follows:

1. 501 Chapala Street. 1895-6. Frank B. Smith House. Queen Anne. Eligible for the National Register of Historic Places, listed on the California Register of Historic Places, City Structure of Merit
2. 506 Chapala Street. 1930. Fred Whaley/Firestone Tire Store. Art Deco
3. 514-516 Chapala Street. 1875-76. Victorian duplex. City Structure of Merit.



4. 625 Chapala Street. 1875. Sherman house. Italianate. Eligible for the California Register of Historic Places, a City Structure of Merit

Potentially Significant Buildings

1. 317 Chapala Street. 1926. S. B. Tobacco Company warehouse and office. Spanish Colonial Revival. Soule, Murphy and Hastings. Eligible for the National Register of Historic Places, listed on the California Register

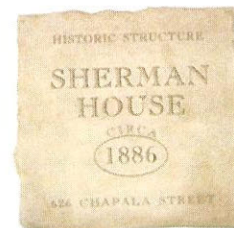
of Historic Places, on the City List of Potential Historic Structures

2. 430 Chapala Street (33-35 West Haley Street). 1926. Salvation Army building. Spanish Colonial Revival. Soule, Murphy and Hastings. Eligible for the National Register of Historic Places
3. 505 Chapala Street. 1887. Levy House. Italianate. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
4. 509 Chapala Street. 1887. Dancaster House. Italianate. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
5. 614 Chapala Street. 1946. George Young Chevrolet building A. Godfrey Bailey with Soule and Murphy. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
6. 900 Chapala Street. 1968. Charles Schwab. Brutalist Spanish Colonial Revival. Kruger, Bensen Ziener. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
7. 911 Chapala Street. 1930, 1940. Hollister Estate Office and garage. Edwards and Plunkett. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures
8. 919 Chapala Street. 1936. James D. Crawford building. Winsor Soule and J. F. Murphy. Eligible for the California Register of Historic Places, on the City List of Potential Historic Structures

Noteworthy Buildings

1. 428 Chapala Street. Casa de Sevilla
2. 510-512 Chapala Street (509 Fig Avenue) 1920, 1923. Thompson Court. Craftsman Bungalow Court.
3. 518-520 Chapala Street. 1908. Monterey. W. W. Varney. Architectural Advisory Committee for 1925 earthquake repairs.
4. 609 Chapala Street. c. 1905. Colonial Revival cottage
5. 721 Chapala Street. 1910 cottage.
6. 723-733 Chapala Street. 1919-1920. John E. Vince. George Haney builder
7. 735-739 Chapala Street. 1921-1922. John E. Vince. George Haney builder
8. 101 West Canon Perdido Street. Santa Barbara Telephone Company. 1928. Classical. Russell Ray

Alexandra C. Cole Preservation Planning Associates, 519 Fig Avenue, Santa Barbara, CA 93108 - June 16, 2003



These guidelines recommend the installation of historic building markers. These sandstone pavers would be placed within the sidewalk and include information about the specific building incised within the surface of the paver.

Goals Of The Chapala Street Design Guidelines

The City of Santa Barbara Redevelopment Agency initiated the Chapala Street Design Guidelines in May 2003 to ensure that public improvements that occur as a result of Private Sector development of the Chapala Street corridor consisted of a unified theme that met the needs of current downtown residents and businesses. The Chapala Street Design Guidelines influence that area of Chapala Street south of Carrillo Street and north of Hwy 101. The overriding goals of the Chapala Street Design Guidelines are to:

1. Maintain Chapala Street as an important vehicular traffic route through downtown Santa Barbara.
2. Improve pedestrian safety at intersections and street crossings.
3. Preserve the unique character of Chapala Street
4. Provide a unified theme, consistent with the City of Santa Barbara Urban Design Guidelines and the El Pueblo Viejo Design Guidelines, for the future development of Chapala Street.

The Chapala Street Design Guidelines are consistent with the City of Santa Barbara Redevelopment Agency's purpose to:

1. Encourage harmonious, environmentally compatible and economically efficient land uses throughout the Redevelopment Agency Area, thereby achieving functional, economic and visual order.
2. To coordinate such land uses and accompanying standards, controls and regulations with existing City controls and review processes.
3. To create economically viable central core that offers an attractive and pleasant environment.

The Chapala Street Design Guidelines are consistent with the City of Santa Barbara Urban Design Guidelines and the El Pueblo Viejo Guidelines that form the basis for decisions of the City of Santa Barbara Historic Landmarks Commission(HLC).

(Reference 1995 edition "Guidelines El Pueblo Viejo District", Santa Barbara, California)

The Chapala Street Design Guidelines are consistent with a set of general goals that define the major concerns and objectives of the City of Santa Barbara Historic Landmarks Commission. These goals are:

1. To safeguard the heritage of the City by providing for the protection of landmarks representing significant elements of its history;
2. Enhance the visual character of the City by encouraging and regulating the compatibility of architectural styles within landmark districts reflecting unique and established architectural traditions.

3. Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;
4. Strengthen the economy by protecting and enhancing the City's attractions to residents, tourists and visitors.
5. Promote the private and public use of landmarks and landmark districts for the education, prosperity and general welfare of the people;
6. Stabilize and improve property values within the City.

(Reference City of Santa Barbara Municipal Code - Chapter 22.22 Historic Structures , City of Santa Barbara, California, December 31st, 2000)

Guidelines Interpretation and Application

These Guidelines are designed to provide direction to Public Works, the RDA, private developers and to the public as a whole. Although failure to meet the Guidelines can form a basis for denial of a project, noncompliance with these Guidelines shall not be grounds to invalidate any action taken by the HLC, PC, or City Council nor shall such noncompliance constitute a cause of action against the City or its officers, employees or agents concerning any matter.

All questions regarding the proper interpretation and application of these Guidelines shall be resolved by the HLC or, upon appeal, the City Council.

The Santa Barbara General Plan contains policies and direction regarding the visual aspect of development, neighborhood compatibility, and landscaping. General and Coastal Plan policies and direction prevail over both the Zoning Ordinance and Design Guidelines.

Any project approved pursuant to the Chapala Street Guidelines shall be subject to environmental review.

The Zoning Ordinance contains many standards which plans must comply with. In using Design Guidelines, Code requirements prevail over guidelines. These Chapala Street Design Guidelines are intended to augment the Municipal Code by providing guideline details to complement topics in the Code, as well as to provide guidelines on topics not included in the Code.

In addition to the basic HLC Architectural & Landscape Guidelines, other guidelines for specific types of development and for specific areas of the City have been prepared with input from the HLC, Planning Commission, and others. The